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DIGEST OF OTHER RECENT VIRGINIA DECISIONS.**Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

HOLLADAY v. MOORE.

June 12, 1913.

[78 S. E. 551.]

1. Appeal and Error (§ 690*)—Burden of Showing Error.—Assignments of error to the exclusion of questions asked witnesses are not available on appeal, where the record fails to show what answers were or would have been given had the witness been permitted to answer.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 2897-2899, 2902-2904, 2906, 2908; Dec. Dig. § 690.* 1 Va.-W. Va. Enc. Dig. 597; 14 Va.-W. Va. Enc. Dig. 94; 15 Va.-W. Va. Enc. Dig. 69.]

2. Ejectment (§ 25*)—Defenses—Outstanding Title.—While in ejectment the plaintiff must recover upon the strength of his own title and an outstanding legal title in another whether that other be a stranger, the commonwealth, or the defendant will defeat a recovery, the outstanding title must be a present subsisting and operative title, upon which the owner could recover in an action, and hence it was error to refuse an instruction to that effect.

[Ed. Note.—For other cases, see Ejectment, Cent. Dig. §§ 99-106; Dec. Dig. § 25.* 4 Va.-W. Va. Enc. Dig. 902; 14 Va.-W. Va. Enc. Dig. 367.]

3. Ejectment (§ 110*)—Trial—Instructions.—In ejectment, where there was evidence to show the prior peaceful possession of plaintiff or those under whom he claimed, it was error to refuse an instruction that prior peaceful possession by plaintiff or those under whom he held claiming to be the owner in fee was prima facie evidence of ownership and sufficient to authorize a recovery unless defendant should show a better title.

[Ed. Note.—For other cases, see Ejectment, Cent. Dig. §§ 319-326; Dec. Dig. § 110.* 4 Va.-W. Va. Enc. Dig. 904.]

Error to Circuit Court, Prince Edward County.

Action by W. M. Holladay against W. R. Moore. Judgment for plaintiff for insufficient relief, and he brings error. Reversed.

Watkins & Brock, of Farmville, for plaintiff in error.

J. T. Thompson, of Farmville, and *R. H. Mann*, of Petersburg, for defendant in error.

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.